

APPEAL NO. 021564
FILED JULY 25, 2002

Following a contested case hearing held on May 31, 2002, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer resolved the disputed issue by concluding that the appellant's (claimant) right knee injury of _____, "is a sprain/strain injury and does not extend to or include any other injury, and more specifically it does not include aggravation of preexisting arthritis in the right knee." The claimant has appealed this determination on evidentiary sufficiency grounds, asserting that the hearing officer ignored evidence that the respondent (self-insured employer) had to accommodate the claimant's injury after it occurred and, instead, focused on the medical evidence, which was in conflict as to the etiology of the knee pathology. The self-insured employer's response urges the sufficiency of the evidence to support the challenged factual determination.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. The claimant testified that he first injured his right knee in 1979; that his treating doctor performed arthroscopic surgery on that knee in January 1999; that he returned to work as a warehouseman for the self-insured employer; and that on _____, he fell down some stairs at work, landing on his right knee and injuring it. He said that he saw his doctor on August 17, 1999, and then did not see him again until March 16, 2001; and, that the doctor operated on his knee again on April 30, 2002, and told him the knee joint is "bone on bone" and that he requires a total knee replacement. Reports of MRI exams of the right knee both before and after _____, reflected severe degenerative arthritis and the medical opinions are in conflict as to whether the injury the claimant sustained in the fall at work consisted of a sprain/strain injury or an aggravation of the preexisting arthritis.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The hearing officer found that the injury event of _____, "was a producing cause of a sprain/strain injury to Claimant's right knee, but not of any other injury, and more specifically did not accelerate, worsen, or aggravate Claimant's pre-existing degenerative arthritis in the knee." The Appeals Panel, an appellate reviewing tribunal, will not disturb a challenged factual finding of a hearing officer unless it is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Philip F. O'Neill
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Gary L. Kilgore
Appeals Judge